

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ANTHONY D. JONES,

Plaintiff,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF CORRECTIONS, JOHN  
ALDANA, D. WALLACE, DAN  
PACHOLKE, LORI LAWSON,

Defendant.

No. C13-5084 RBL/KLS

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

Before the Court is Plaintiff's motion for the appointment of counsel. ECF No. 12. Having carefully reviewed Plaintiff's motion and balance of the record, the Court finds, for the reasons stated below, that Plaintiff's motion should be denied.

**DISCUSSION**

No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). *See also United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) ("[a]ppointment of counsel under this section is discretionary, not mandatory.") However, in "exceptional circumstances," a district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998) (emphasis supplied.) To decide whether exceptional circumstances exist, the court must evaluate both "the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal

1 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting  
2 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts that show he  
3 has an insufficient grasp of his case or the legal issue involved and an inadequate ability to  
4 articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of America*, 390 F.3d  
5 1101, 1103 (9<sup>th</sup> Cir. 2004).

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7 Plaintiff asks that counsel be appointed for him because he is indigent, has been unable to  
8 find counsel on his own, and has limited knowledge of the legal process. ECF No. 12 at 1-2.  
9 The Court finds no exceptional circumstances in this case. Plaintiff has clearly shown an ability  
10 to articulate his claims in a manner understandable to this Court. The pleadings on file in this  
11 case demonstrate that Plaintiff is familiar with the Court rules as well as the law pertaining to his  
12 claims. This case does not involve complex facts or law. Plaintiff claims that he was  
13 discriminated against because of his religion, and that Defendants violated his rights under the  
14 First Amendment. This case will not require the use of experts or any other unusual analysis or  
15 argument.  
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17 In addition, Plaintiff’s incarceration does not increase the complexity of his case. That a  
18 *pro se* litigant may be better served with the assistance of counsel is not the test. *Rand*, 113 F.3d  
19 at 1525. Moreover, the need for discovery does not necessarily qualify the issues involved as  
20 “complex.” *Wilborn*, 789 F.2d at 1331. “Most actions require development of further facts  
21 during litigation and a *pro se* litigant will seldom be in a position to investigate easily the facts  
22 necessary to support the case. If all that was required to establish successfully the complexity of  
23 the relevant issues was a demonstration of the need for development of further facts, practically  
24 all cases would involve complex legal issues.” *Id.*  
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1 While Plaintiff may not have vast resources or legal training, he meets the threshold for a  
2 *pro se* litigant. In addition, Plaintiff has not shown a likelihood of success on the merits.

3 Accordingly, Plaintiff's motion for the appointment of counsel (ECF No. 12) is  
4 **DENIED**. The Clerk is directed to send copies of this Order to Plaintiff.

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6 **DATED** this 2nd day of May, 2013.

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9 Karen L. Strombom  
10 United States Magistrate Judge  
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